

JONATHAN M. KAUFMAN, ESQ. (California State Bar No. 104576)
The Law Offices Of Jonathan M. Kaufman
220 Montgomery Street, Suite 976
San Francisco, CA 94104
Telephone: (415) 956-4765
Facsimile: (415) 956-1664
E-Mail: klo-jmk@pacbell.net

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RICHARD W. MILLER
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NORTHERN DISTRICT OF CALIFORNIA
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SI

JASWINDER SINGH,

Plaintiff,

vs.

EMILIO T. GONZALEZ,
Director, United States Citizenship
and Immigration Services,

Defendant

C 07 3584
Case No.

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTION

Plaintiff alleges:

1. This action is brought pursuant to the provisions of 28 U.S.C. § 1331 and 5 U.S.C. §§ 701 - 706.
2. Defendant is the Director of the United States Citizenship and Immigration Services, (USCIS), an agency of the United States as defined by 5 U.S.C. §701(b)(1), charged with the duty to administer and enforce the Immigration and Nationality Act.
3. Plaintiff is a citizen and national of India who was granted asylum in the United States on November 8, 2000. *See*, attached Exhibit A.
4. 8 U.S.C. §1159(b) vests defendant with discretion to adjust the status of an asylee to an alien lawfully admitted for permanent residence.
5. On January 22, 2002 plaintiff applied for adjustment of status by filing an application in

1 the manner prescribed in 8 C.F.R. §209.2 with the director of the USCIS Nebraska Service Center.
2 *See*, Exhibit B.

3 6. On August 25, 2005 the USCIS served plaintiff with notice that his application was
4 transferred to the USCIS Texas Service Center to speed processing of his application. *See*, Exhibit
5 C.

6 7. It is defendant's legal duty to adjudicate plaintiff's application for adjustment of status
7 and to adjust plaintiff's status to lawful permanent resident if his application is approved, or, if
8 plaintiff's application is denied, forward written notice of the decision to plaintiff that includes the
9 reasons for denial.

10 8. 5 U.S.C. §555(b) dictates that the USCIS must proceed to conclude action on plaintiff's
11 application within "a reasonable time". Defendant has violated his duty. According to information
12 the USCIS makes available to the public, the USCIS Texas Service Center is now adjudicating
13 adjustment applications filed on or before August 1, 2004. *See*, Exhibit D. Defendant's failure to
14 adjudicate plaintiff's application violates 8 U.S.C. §1159(b), 8 C.F.R. §209.2, and 5 U.S.C.
15 §555(b).

16 9. Plaintiff's application remains pending.

17 10. There is no administrative appeal from defendant's decision.

18 11. There is a real and actual controversy between the parties. Plaintiff has no adequate
19 remedy at law. Plaintiff has suffered and will continue to suffer irreparable injury as result of the
20 acts of the defendant complained herein.

21 WHEREFORE, plaintiff prays judgment.

22 1. Declaring that defendant has violated 8 U.S.C. §1159(b), 8 C.F.R. §209.2, and 5 U.S.C.
23 §555(b) in the adjudication of plaintiff's application for adjustment of status.

24 2. Preliminarily and permanently enjoining defendant, his agents, and delegates to
25 immediately adjudicate plaintiff's application for adjustment of status.

26 3. Awarding plaintiff his costs and reasonable attorneys fees incurred in this action.
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1 4. Granting such other and further relief as may be appropriate.

2 Dated: July 11, 2007

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4 JONATHAN M. KAUFMAN
Attorney For Plaintiff
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EXHIBIT A

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION COURT
550 KEARNY ST., SUITE 800
SAN FRANCISCO, CA 94108

In the Matter of

Respondent

Jaswinder Singh

File No.:

IN REMOVAL PROCEEDINGS

A77835211

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Nov. 8 2007.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- [] The respondent was ordered removed from the United States to _____.
- [] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ or in the alternative to _____.
- [] Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternative order of removal to _____.
- (X) Respondent's application for asylum was (X) granted, () denied () withdrawn () other.
- [] Respondent's application for withholding of removal was () granted () denied () withdrawn () other.
- [] Respondent's application for cancellation of removal under section 240A(a) was () granted () denied () withdrawn () other.
- [] Respondent's application for cancellation of removal under section 240A(b) was () granted () denied () withdrawn () other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- [] Respondent's application for a waiver under section _____ of the INA was () granted () denied () withdrawn () other.
- [] Respondent's application for adjustment of status under section _____ of the INA was () granted () denied () withdrawn () other. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- [] Respondent's status was rescinded under section 246 of the INA.
- [] Respondent is admitted to the United States as a _____ until _____.
- [] As a condition of admission, respondent is to post a \$ _____ bond.
- [] Respondent knowingly filed a frivolous asylum application after proper notice.
- [] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- [] Proceedings were terminated.
- [] Other:

Appeal Reserved Waived by: A/1/E
Appeal due by: Dec. 8, 2007

Date:

11/8/00

Beverly M. Phillips
Beverly M. Phillips
Immigration Judge

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [] PERSONAL SERVICE [X]
TO: [] ALIEN [X] ALIEN &/or Custodial Officer [] ALIEN'S ATT/REP [X] INS
DATE: 11/8/00 BY: COURT STAFF
Attachments: [] EOIR-33 [] EOIR-29 [] Legal Services List
[] Other

EXHIBIT B

Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER LIN-02-094-50304		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS
RECEIVED DATE January 22, 2002	PRIORITY DATE	APPLICANT A77 835 211 SINGH, JASWINDER
NOTICE DATE January 25, 2002	PAGE 1 of 1	

JASWINDER SINGH
1688 KOMENICH DR
MANTECA CA 95336

Notice Type: Receipt Notice

Amount received: \$ 245.00

Section: Asylee adjustment

The above application or petition has been received. It usually takes 360 to 390 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

If you have other questions about possible immigration benefits and services, filing information, or Immigration and Naturalization Service forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call our TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 402-323-7830



EXHIBIT C

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797C, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER LIN-02-094-50304		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS
RECEIPT DATE January 25, 2002	PRIORITY DATE	APPLICANT A77 835 211 SINGH, JASWINDER
NOTICE DATE August 25, 2005	PAGE 1 of 1	

JASWINDER SINGH
1688 KOMENICH DR
MANTECA CA 95336

Notice Type: Transfer Notice

This is to advise you that in order to speed processing we have transferred the above case to the following INS office for processing:

Texas Service Center, P. O. Box 851488 - Dept. A, Mesquite, TX 75185-1488

Telephone: (214) 381-1423

That office will notify you of the decision made on the application or petition. Any further inquiries should be made to that office.



Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 800-375-5283



EXHIBIT D

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U.S. Citizenship and Immigration Services

Texas Service Center Service Center Processing Dates

Posted June 18, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report that as the processing time. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show a date consistent with our service level goal because that reflects our commitment.

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information. If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can [check the status of your case online](#).

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

Case Services - How do I... know what kind of services are available to me after I file my application or petition?

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

Service Center Processing Dates for **Texas Service Center** Posted June 18, 2007

Form	Title	Classification or Basis for Filing	Now Processing Cases with Receipt Notice Date of
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	December 14, 2006
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	March 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the U.S.	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	May 31, 2007
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	May 16, 2007
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	E - Treaty traders and investors	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	May 16, 2007
I-129	Petition for A Nonimmigrant Worker	Blanket L	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	April 15, 2007
I-129	Petition for A Nonimmigrant Worker	TN - North American Free Trade Agreement (NAFTA) professional	April 15, 2007
I-131	Application for Travel Document	All other applicants for advance parole	March 15, 2007
I-140	Immigrant Petition for Alien Worker	Extraordinary ability	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Outstanding professor or researcher	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Multinational executive or manager	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Schedule A Nurses	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability requesting a National Interest Waiver	December 14, 2006

I-140	Immigrant Petition for Alien Worker	Skilled worker or professional	December 14, 2006
I-140	Immigrant Petition for Alien Worker	Unskilled worker	December 14, 2006
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	September 30, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Employment-based adjustment applications	September 11, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on grant of asylum more than 1 year ago	August 01, 2004
I-526	Immigrant Petition By Alien Entrepreneur	For use by an entrepreneur who wishes to immigrate to the United States	December 14, 2006
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for F or M academic or vocational students	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	March 15, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	March 15, 2007
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	August 04, 2006
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents)	December 14, 2006
I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	March 29, 2007
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	May 17, 2007
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	March 29, 2007
I-765	Application for Employment Authorization	Based on TPS for Honduras/Nicaragua [(c)(19), (a)(12)]	March 29, 2007
I-765	Application for Employment Authorization	Based on TPS for El Salvador [(c)(19)(a)(12)]	March 29, 2007
I-765	Application for Employment Authorization	All other applications for employment authorization	March 29, 2007
		Voluntary departure under the family unity	

I-817	Application for Family Unity Benefits	program	December 14, 2006
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	December 14, 2006
I-829	Petition by Entrepreneur to Remove Conditions	Removal of lawful permanent resident conditions (immigrant investors)	December 14, 2006
I-829	Petition by Entrepreneur to Remove Conditions	Removal of lawful permanent resident conditions (immigrant investors) based on PL107-273	December 14, 2006

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